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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/489,760	01/21/00	GOULMY	E 4285US
		HM12/0226	EXAMINER
			HUYNH, P
		ART UNIT	PAPER NUMBER
		1644	7
		DATE MAILED:	02/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Applicant(s)
09/489,760	GOULMY ET AL.
Examiner	Art Unit
"Neon" Phuong Huynh	1644

## **Office Action Summary**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE One MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 0/21/00 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-5 and 7-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1-5, 7-19 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

15)  Notice of References Cited (PTO-892)  
16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.  
18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
19)  Notice of Informal Patent Application (PTO-152)  
20)  Other: \_\_\_\_\_.

**DETAILED ACTION**

1. The location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Group 1640, Technology Center 1600.
2. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. 1.821(a)(1) and (a)(2). Applicant's compliance with sequence's rule is acknowledged.
3. **Please Note:** In an effort to enhance communication with our customers and reduce processing time, ~~Group 1640 is running a Fax Response Pilot for Written Restriction Requirements.~~ A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at [Paula.Hutzell@uspto.gov](mailto:Paula.Hutzell@uspto.gov) or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.
4. The preliminary amendment filed on 1/21/00 (Paper No. 6) is acknowledged.  
Claims 6 have been canceled.  
Claims 1-5, 7-19 have been amended.  
Claims 1-5, 7-19 are pending in the instant application.

*Election/Restrictions*

5. Restriction is required under 35 U.S.C. 121:
  - I. Claims 1-5, 9 drawn to a peptide, a vaccine, an analog, a pharmaceutical formulation comprising of SEQ ID NO: 1 wherein X represents a histine identified by SEQ ID NO: 2, classified in Class 530, subclass 300.
  - II. Claims 1-5, 9 drawn to a peptide, a vaccine, an analog, a pharmaceutical formulation comprising of SEQ ID NO: 1 wherein X represents a histine identified by SEQ ID NO: 5, classified in Class 530, subclass 300.

- III. Claim 7 drawn to a method of inducing tolerance for transplants or Graft versus Host disease using immunogenic polypeptide identified by SEQ ID NO: 2, classified in Class 424, subclass 184.1.
- IV. Claim 7 drawn to a method of inducing tolerance for transplants or Graft versus Host disease using immunogenic polypeptide identified by SEQ ID NO: 5, classified in Class 424, subclass 184.1.
- V. Claim 7 drawn to a method of inducing tolerance for autoimmune disease using immunogenic polypeptide identified by SEQ ID NO: 2, classified in Class 424, subclass 184.1.
- VI. Claim 7 drawn to a method of inducing tolerance for autoimmune disease using immunogenic polypeptide identified by SEQ ID NO: 5, classified in Class 424, subclass 184.1.

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- VII. Claim 8 drawn to a method of elimination of neoplastic hematopoietic cells using immunogenic polypeptide identified by SEQ ID NO: 2 directly or indirectly, classified in Class 424, subclass 184.1.
- VIII. Claim 8 drawn to a method of elimination of neoplastic hematopoietic cells using immunogenic polypeptide identified by SEQ ID NO: 5 directly or indirectly, classified in Class 424, subclass 184.1.
- IX. Claims 10-11 drawn to a process for producing antibodies against immunogenic polypeptide identified by SEQ ID NO: 2, classified in Class 530, subclass 387.1.
- X. Claims 10-11 drawn to a process for producing antibodies against immunogenic polypeptide identified by SEQ ID NO: 5, classified in Class 530, subclass 387.1.
- XI. Claim 10 drawn to a process for producing anti-idiotypic B cells against immunogenic polypeptide identified by SEQ ID NO: 2, classified in Class 435, subclass 325.
- XII. Claim 10 drawn to a process for producing anti-idiotypic B cells against immunogenic polypeptide identified by SEQ ID NO: 5, classified in Class 435, subclass 325.
- XIII. Claims 10-18 drawn to a process for producing T cell and T cell receptor recognizing immunogenic polypeptide identified by SEQ ID NO: 2, classified in Class 435, subclass 325.
- XIV. Claim 10-18 drawn to a process for producing T cell and T cell receptor recognizing immunogenic polypeptide identified by SEQ ID NO: 5, classified in Class 435, subclass 325.

The inventions of Group I-XIV are distinct, each from the other because of the following reasons:

Groups I-II are different products, which differ with respect to its amino acid sequences, structures and biological activity. Therefore, they are patently distinct.

Groups III-XIV are different methods (method of treating and method of making antibody or cells) which employs different ingredients, process steps and endpoints. Therefore, they are patently distinct.

6. Because these inventions are distinct for the reasons given above and the searches are not co-extensive, restriction for examination purposes as indicated is proper.
7. Applicant is advised that the response to this requirement to be complete must include an election of the ~~invention to be examined even though the requirement be traversed.~~
8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (703) 308-4844. The examiner can normally be reached Monday through Friday from 8:00 am to 5:00 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

10. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

February 16, 2001



Patrick J. Nolan, Ph.D.

Primary Examiner

Technology Center 1600